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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

The United States of America,) Case No. 22-CR-08092-1-PCT-SMB
Plaintiff,) **MOTION TO SET COMPETENCY**
vs.) **HEARING**
Samuel Rappylee Bateman,)
Defendant.)

Comes Now the Defendant, Samuel Rapylee Bateman, by and through Counsel undersigned and hereby moves this Honorable Court for an order setting a hearing where the Court can take testimony of Dr. Gaughn in order for the Court to make a decision on Mr. Bateman's competency.

Dr. Gaughn submitted his report but does not reach a conclusion that answers whether Mr. Bateman is competent. In fact, the body of the report states he is "mentally ill" and "delusional." Based on the totality of the report it would not be difficult to conclude that Mr. Bateman is not competent. However, medical testimony and an opinion on this is needed in order for the Court to make a decision and the parties to move forward.

It should also be noted that both Counsel and the Court have attempted to obtain a conclusion from Dr. Gaughn's office with no response. Counsel respectfully suggests that it is in the interests of justice and all involved for the Court to order a hearing where testimony can be taken and upon which the Court can rely in making its decision on competency.

As the Court is aware, if he is not competent he can be remanded to the custody of the Attorney General for treatment at a facility to be designated and for a time appointed by statute and the Court.

If he is competent, there is at least a basis to proceed with sentencing after the Court's decision and sufficient time to reconcile that decision with Mr. Bateman's participation in his sentencing hearing.

DATED this 29th day of November, 2024.

/s/ Brian F. Russo

Brian F. Russo
Attorney for Defendant Bateman

CERTIFICATE OF SERVICE I hereby certify that on this date, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrant:

Dimitra Sampson, AUSA

/s/ Brian F. Russo